

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES STATEN,

Plaintiff,

v.

MAYOR ALVIN PARKS,

Defendant.

Case No. 11-cv-36-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff James Staten's motion for leave to proceed *in forma pauperis* (Doc. 3). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious or fails to state a claim. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). When assessing a petition to proceed *in forma pauperis*, a district court should inquire into the merits of the petitioner's claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

The Court is unable to discern in the complaint a cause of action over which it has jurisdiction. Accordingly, the Court finds Staten has failed to state a claim upon which relief can be granted, **DENIES** his motion for leave to proceed *in forma pauperis* (Doc. 2), **DISMISSES**

this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: January 24, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE